

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WILLIAM JOSEPH WEBB, JR.,

Plaintiff,

v.

C. A. No. 07-31 - GMS

FIRST CORRECTIONAL MEDICAL,
CORRECTIONAL MEDICAL SERVICES,
GOVERNOR RUTH ANN MINNER,
COMMISSIONER STANLEY W. TAYLOR,
BUREAU CHIEF PAUL W. HOWARD,
MS. GINA WOLKEN,
DR. ALI, DR. NIAZ, DR. JOHN DOE,
DR. JANE DOE, CORRECTIONAL MEDICAL
SERVICES GRIEVANCE HEARING STAFF,
MS. ROSALIE VARGAS,
JOHN DOE, AND JANE DOE,

Defendants.

**MUHAMMED NIAZ, M.D.'S RESPONSE TO PLAINTIFF'S MOTION FOR
RELIEF FROM A PRIOR ORDER
{Related Docket DI 111}**

COMES NOW, Defendant, Muhammed Niaz, M.D., by and through the undersigned attorney to hereby responds to Plaintiff's Motion for Relief from a Prior Order (DI 111) as follows:

1. On May 9, 2008 Plaintiff filed a Motion for Relief from a Prior Order pursuant to Fed. R. Civ. P. 60(a) (clerical error) (DI 111). Said motion was docketed as being related to an Order denying the Motion for Preliminary Injunction (DI 102).

2. Upon review of the Motion for Relief from the Prior Order (DI 111) it really appears to be a request/notice by Plaintiff that he wants to amend his complaint as to the allegation asserted against Dr. Niaz. The Motion states that "Plaintiff has noticed a clerical error

in the Complaint on page 6 at paragraph 5, which should read “Deliberate Indifference: On April 19, 2006, Defendant Dr. Niaz maliciously attempted to inject Plaintiff with a needle containing the treatment medication for ...”.

3. Nothing herein shall be deemed an admission to any allegations in the amended complaint, nor shall it be deemed a waiver of any defenses, previously asserted and pending with the Court.

WHEREFORE, Defendants respectfully request the Court recognize that correct nature of Plaintiff’s filing (DI 111) as a motion to amend the complaint.

/s/ Eileen M. Ford
EILEEN M. FORD, ESQUIRE (NO. 2870)
MEGAN T. MANTZAVINOS, ESQUIRE (NO. 3802)
Marks, O’Neill, O’Brien & Courtney, P.C.
913 Market Street, #800
Wilmington, DE 19801
(302) 658-6538
Attorneys for Defendants

DATED: May 21, 2008

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FIRST CORRECTIONAL MEDICAL,
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Defendants.

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ORDER

Upon Consideration of Plaintiff's Motion for Relief from Prior Order pursuant to Fed. R. Civ. P. 60(a) (DI 111) and any response thereto, IT IS HEREBY ORDERED this _____ day of _____, 2008 as follows:

The Motion filed by Plaintiff at DI 111 shall be deemed a Motion to Amend Page 6, ¶5 to read the date April 19, 2006, instead of April 19, 2005.

Judge

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FOR THE DISTRICT OF DELAWARE

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FIRST CORRECTIONAL MEDICAL,
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HOWARD, MS. GINA WOLKEN,
DR. ALI, DR. NIAZ, DR. JOHN DOE,
DR. JANE DOE, CORRECTIONAL
MEDICAL SERVICES GRIEVANCE
HEARING STAFF, MS. ROSALIE
VARGAS, JOHN DOE, AND JANE DOE,

Defendants.

CERTIFICATE OF SERVICE

I, Eileen M. Ford, Esquire hereby certify that on this **21st** day of **May**, 2008,
electronically filed the attached **Response to Plaintiff's Motion for Relief from a Prior Order
{Related Docket DI 111}** with the Clerk of Court using CM/ECF which will send notification of
such filing(s) to the following, Catherine Damavandi, Esquire. I have served via first class mail
two copies of the **Response to Plaintiff's Motion for Relief from a Prior Order {Related
Docket DI 111}** to the Pro Se Plaintiff:

William Joseph Webb, Jr., pro se
SBI # 256056
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

/s/ Eileen M. Ford

EILEEN M. FORD, ESQUIRE (No. 2870)

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Attorney for Defendants

Date: May 21, 2008